



**The Commonwealth of Massachusetts**  
**DEPARTMENT OF**  
**TELECOMMUNICATIONS AND ENERGY**

D.T.E. 05-61

April 28, 2006

Investigation by the Department of Telecommunications and Energy on its own motion as to the propriety of the rates and charges set forth in the following tariff: M.D.T.E. No. 17, filed with the Department on September 15, 2005 by Milford Water Company, and suspended for further investigation.

---

**APPEARANCES:**

Eric J. Krathwohl, Esq.  
Rich May, P.C.  
176 Federal Street  
Boston, Massachusetts 02110-2223  
FOR: MILFORD WATER COMPANY  
Petitioner

Shaela McNulty Collins, Esq.  
Jeanne L. Voveris, Esq.  
Department of Telecommunications and Energy  
One South Station  
Boston, Massachusetts 02110  
FOR: SETTLEMENT INTERVENTION STAFF

Gerald M. Moody, Esq  
Legal Department  
Town Hall  
52 Main Street  
Milford, Massachusetts 01757-2622  
FOR: TOWN OF MILFORD  
Intervenor

## I. INTRODUCTION

On September 15, 2005, pursuant to G.L. c. 164, § 94 and G.L. c. 165, § 2, Milford Water Company (“Milford” or “Company”), filed a base distribution rate proposal with the Department of Telecommunications and Energy (“Department”) seeking additional annual revenues of \$1,156,555. By Order dated September 29, 2005, the Department suspended the proposed rates until April 1, 2006, in order to investigate the propriety of the Company’s petition. Subsequently, by Order dated March 24, 2006, the Department further suspended rates until August 1, 2006.<sup>1</sup> The Department appointed Settlement Intervention Staff (“SIS”) to act as a full intervenor in this proceeding in order to promote negotiations and effect a settlement if feasible.<sup>2</sup> The Department also granted a petition to intervene by the Town of Milford (“Town”). The evidentiary record consists of 144 exhibits.<sup>3</sup>

Pursuant to notice duly issued, the Department held a public hearing in the Town of Milford on November 16, 2005, to afford interested persons the opportunity to comment on the Company’s proposal. On that date, representatives of the Company, SIS, and the Department conducted a site visit of the Company’s facilities.

---

<sup>1</sup> This Order supercedes the March 24, 2006 Order.

<sup>2</sup> The Department established the SIS process by memorandum dated June 4, 1990, in order to promote negotiated settlements and to formalize institutional representation of ratepayers in water company proceedings.

<sup>3</sup> The Department grants the Parties’ request to move into the record the Company’s initial filing and responses to all of SIS’s information requests provided during this proceeding. Also, consistent with 220 C.M.R. §1.10, the Department moves into the evidentiary record the Company’s responses to the Department, SIS, and the Town’s information requests.

On April 6, 2006, the Company, the Town, and SIS (collectively, “Parties”) submitted a joint motion for approval of an offer of settlement (“Motion”) and an offer of settlement (“Settlement”) to the Department, which the Parties state is intended to resolve all out-standing issues in this proceeding. The Motion and the Settlement both have an expiration date of April 30, 2006.

## II. DESCRIPTION OF THE PROPOSED OFFER OF SETTLEMENT

By its terms, the Settlement filed by the Parties with the Department is expressly conditioned upon the Department’s acceptance of all provisions therein, without change or condition, by April 30, 2006 (Settlement at ¶ 3.1). The key provisions of the Settlement are set forth below.

The Settlement allows Milford additional annual revenues of \$755,000, which represent an increase of 25 percent over rates in effect as of December 1, 2005 (id. at ¶ 2.1). The Settlement further provides that for purposes of calculating allowance for funds used during construction and similar calculations only, the overall rate of return on rate base will be 9.83 percent, based on a return on common equity of 10.50 percent and a capital structure consisting of 23.62 percent long-term debt, 3.43 percent preferred stock, and 72.95 percent common equity (id. at ¶ 2.2). The Settlement represents that the Company will not seek another base distribution rate increase for a period of 24 months commencing on the date of issuance of this Order (id. at ¶ 2.4). Because of the Company’s water supply constraints, the Settlement contains a surcharge for water purchased in order to account for price differentials

between its metered service rates and the cost of water purchased from other water systems under emergency conditions (id. at ¶ 2.5).

The Settlement also contains a rate structure that consists of a meter-based customer charge, a single-block volumetric rate for non-residential users, and a two-block volumetric rate for residential users with the tailblock rate 50 percent greater than the headblock rate (id. at ¶ 2.6). For residential customers the breakpoint for the volumetric rate is consumption in excess of 4,800 cubic feet per quarter (id.). The Parties represent that the proposed metered rate structure takes into account: (1) the Company's water supply constraints; (2) the role of increased residential demand on the Company's supply; (3) the limited evidence on the role of rate design in promoting water conservation; and (4) rate continuity (id.).

### III. STANDARD OF REVIEW

The Department instituted the settlement intervention process to reduce administrative costs incurred by small water companies and their ratepayers in adjudicating rate cases. East Northfield Water Company, D.T.E. 98-127, at 3 (1999). In assessing the reasonableness of an offer of settlement, the Department must review the entire record presented in the Company's filing and other record evidence to ensure that the offer of settlement is consistent with Department precedent and the public interest. See Western Massachusetts Electric Company, D.P.U. 92-13, at 7 (1992); Barnstable Water Company, D.P.U. 91-189, at 4 (1992); Cambridge Electric Light Company, D.P.U. 89-109, at 5 (1989); Eastern Edison Company, D.P.U. 88-100, at 9 (1989).

#### IV. ANALYSIS AND FINDINGS

Based on the Department's review of the record in this proceeding, the Department finds that the Settlement submitted by the Parties results in just and reasonable rates and is, therefore, consistent with Department precedent and the public interest. The Department finds that the Settlement includes a rate structure that balances the competing goals of allocating costs while maintaining rate continuity. Milford Water Company, D.T.E. 98-112, at 4 (1999); Boston Gas Company, D.P.U. 96-50-A at 4 (1996); Whitinsville Water Company, D.P.U. 96-111, at 6 (1997). Therefore, the Department approves the Settlement; however, the Department's acceptance of this Settlement does not constitute a determination as to the merits of any allegations, contentions, or arguments made in this proceeding. Moreover, the Department's acceptance of this Settlement does not set a precedent for future filings whether ultimately settled or adjudicated.

#### V. ORDER

After due notice, hearing, and consideration, it is

ORDERED: That the Joint Motion for Approval of Offer of Settlement as filed by Milford Water Company, Settlement Intervention Staff, and the Town of Milford is hereby GRANTED; and it is

FURTHER ORDERED: That Milford Water Company's tariff as set forth in the September 5, 2005, filing is DISALLOWED; and it is

FURTHER ORDERED: That Milford Water Company's existing tariff, M.D.T.E. No. 15, be replaced by M.D.T.E. No. 17A, the tariff attached to the Offer of Settlement, to become effective May 1, 2006.

By Order of the Department,

\s\

---

Judith F. Judson, Chairman

\s\

---

James Connelly, Commissioner

\s\

---

W. Robert Keating, Commissioner

\s\

---

Paul G. Afonso, Commissioner

\s\

---

Brian Paul Golden, Commissioner

An appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of the twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. G.L. c. 25, § 5.